WRIT. NO._____
TRIAL COURT CAUSE NO. 92-543-K277

STATE OF TEXAS	§	IN THE 277TH JUDICIAL
	§	
	§	
v.	§	DISTRICT COURT OF
	§	
	§	
TROY DALE MANSFIELD	§	WILLIAMSON COUNTY, TEXAS

PARTIALLY AGREED APPLICATION FOR WRIT OF HABEAS CORPUS

TO THE HONORABLE JUDGE PRESIDING:

COMES NOW Troy Dale Mansfield ("Mr. Mansfield"), Applicant, in the above-styled and numbered cause, by and through his undersigned counsel, Kristin Etter, and pursuant to Article V, § 8 of the Texas Constitution; Articles 11.01, 11.05 and 11.072 of the Texas Code of Criminal Procedure, Sections 24.007 and 24.011 of the Government Code and the due process and due course of law provisions of the United States Constitution, amendments V and XIV and Texas Constitution Article 1, Section 19, files this Application for Writ of Habeas Corpus and moves the Court to grant his writ of habeas corpus based on the following:

I.

INTRODUCTION

Twenty-three years ago, Mr. Mansfield was falsely accused of Aggravated Sexual Assault of a Child and Indecency with a Child. A combination of new affirmative evidence of innocence and new evidence that the State knowingly concealed key exculpatory evidence warrant post-conviction relief under Texas Code of Criminal Procedure, Article 11.072. Moreover, because the new evidence reveals that Mr. Mansfield's trial was tainted by the State's failure to comply with its *Brady* obligations, relief is required as a matter of due process. Mr. Mansfield is illegally restrained

of his liberty pursuant to Article 11.01, Texas Code of Criminal Procedure, in that he is being subjected to lifetime condemnation as a convicted child sex offender who is mandated to lifetime sex offender registration based upon a plea of guilty that was not freely and voluntarily entered and a plea to a charge to which he was innocent.

The State is in agreement that it violated Mr. Mansfield's due process rights when it failed to disclose key exculpatory evidence so it joins undersigned counsel in requesting that his plea and conviction be vacated on that basis.

II.

FACTUAL BACKGROUND

A. The false accusation against Mr. Mansfield occurred on August 1, 1992.

The false accusation occurred on August 1, 1992, soon after Mr. Mansfield and his wife Amy Mansfield, had the complainant, S.B., age four, over to their home to play with their son, also age four. The Mansfields and S.B.'s family were neighbors and S.B. would frequently come over to play with their children (two boys, aged two and four). When S.B. returned to her home on that particular day, she was questioned by her mother as to what she did at the Mansfield's home. In response to further questioning of S.B. by her mother at some point S.B. allegedly said that Mr. Mansfield tickled her bottom and that during the tickling, Mr. Mansfield stuck his finger in her anus through her panties. S.B.'s parents called the police and then when questioned, Mr. Mansfield proclaimed his innocence.

B. Doubts as to Mr. Mansfield's guilt by the State began on the very same day as the false accusation is made: August 1, 1992.

In cooperation with undersigned counsel's post-conviction investigation, the Williamson County District Attorney's Office agreed to make its complete file available to her in 2014. At the time of Mr. Mansfield's original case, the Williamson County District Attorney's office had a strict

"closed file" policy and neither Mr. Mansfield nor his attorney were able to review any of the information contained within the file. Pursuant to the Williamson County District Attorney's current open-file policy, we now know that investigative notes in the prosecutor's file reflect that even on the very day of the initial accusation, there was some question by the State as to whether this even occurred: "D's [Mr. Mansfield's] son under blanket with S.B. – could he have put his (little boy's) finger in her[?]" *See Exhibit A. investigative notes from prosecutor's file.*

C. Mr. Mansfield has always maintained his innocence but after being "badgered", threatened and coerced by Detective Lemay, Mr. Mansfield made a false confession that was immediately retracted on the same day.

In early August 1992, Mr. Mansfield received a phone call from someone at the Round Rock Police Department asking if he would come down to meet with them. Mr. Mansfield had no idea why they wanted to speak with him but he assumed it was related to a recent misdemeanor possession of marijuana arrest and thought that they wanted to ask him about where he purchased his marijuana. *See Exhibit B. sworn affidavit of Troy Mansfield.* Therefore, Mr. Mansfield voluntarily drove himself later that afternoon to the Round Rock Police Department.

Immediately, Mr. Mansfield realized that the interrogation had nothing to do with marijuana; rather, he was being accused of sexually assaulting S.B. Mr. Mansfield immediately told him that he did not do anything to S.B. In fact, from the initial accusation up until today Mr. Mansfield has always said that he was innocent of this crime. Yet there is a reference in the State's file that at some point, Mr. Mansfield allegedly confessed.[1] There was also a notation in the file that during police interrogation of Mr. Mansfield, "[Detective] Lemay wouldn't let him leave – badgered him." This is important because it was during this "badgering" by Detective Lemay of Mr. Mansfield, that Mr. Mansfield allegedly "confessed." Detective Lemay's first tactic to try to

get Mr. Mansfield to confess was that he manipulated Mr. Mansfield by threatening to have his children taken away. Detective Lemay told Mr. Mansfield that he was free to leave but if he did, he would make sure that his kids would not be home when he arrived because they would be taken away and placed in CPS custody.

In addition, Detective Lemay admitted that at one point during his interrogation of Mr. Mansfield when Detective Lemay asked him if he would be willing to go to "MHMR, pay for it and bring me the receipt showing that he had been, in order to get me to drop the investigation," Mr. Mansfield agreed to do so. According to Detective Lemay, he then "told Mansfield that he had now confessed to me three different times and it was time to speak up and accept responsibility for what he had done."

Moreover, Detective Lemay had Mr. Mansfield's children and wife taken into the police station where they were also interrogated. *See Exhibit C, sworn affidavit of Amy Mansfield.* It was during this time that Mr. Mansfield's wife, Amy, was told that Mr. Mansfield had confessed to the crime. Yet in a subsequent written statement made by Mr. Mansfield on that same day, August 4, 1992, which is contained in the State's file, Mr. Mansfield attested as follows:

> Lemay told me that he would drop all the charges if I would go for counseling and pay for it myself. To a fictitious place across the street at MHMR. I agreed that I would go even though I said that I did not know how I would come up with $80.00. After Lemay told me that this group was fictitious, he told me the little girl's statement was enough in and of itself to charge me with this offense and that I would be charged. Lemay told me that I was going to be charged with this offense. I finally said, after being asked many times and being told that I was guilty, that I was guilty of the offense I was being accused of. I made these statements strictly because I felt boxed in and that the only answers that were acceptable were the ones that found me guilty or that were acceptable to Sgt. Lemay.

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1 See http://www.innocenceproject.org/Content/When_the_Innocent Plead_Guilty.php. The Innocent Project estimate that false confessions are involved in about 25% of wrongful convictions.

D. As early as August 26, 1992, S.B.'s version to the State "greatly differ[ed]" from what what she initially told the police. This key exculpatory evidence was never disclosed to Mr. Mansfield or his attorney.

Handwritten notes in the inside case jacket of the State's file reflect that as early as August 26, 1992, the State continued to have serious reservations about Mr. Mansfield's guilt as evidenced by the following: "Child's [S.B.'s] version to me differs from version to police (*greatly differs*) [emphasis added]." This was never disclosed to Mr. Mansfield or his attorney. *See Exhibit D. sworn affidavit of attorney Stephen Cihal.*

E. Mr. Mansfield always insisted on having a jury trial because he was innocent and his case was set for jury trial seven times.

Throughout the pendency of the case, Mr. Mansfield maintained his innocence and requested a jury trial. According to the docket sheet, Mr. Mansfield's case was set for jury trial on multiple dates: January 11, 1993; February 1, 1993; April 19, 1993; June 14, 1993; August 23, 1993 and finally on September 13, 1993. *See Exhibit E, docket sheet.* In preparation for trial, Mr. Mansfield's attorney, Stephen Cihal, filed pretrial motions, including a Motion for Evidence Favorable to the Defendant, which was filed on October 26, 1992. *See Exhibit F, Motion for Evidence Favorable to the Defendant.* On May 17, 1993, the trial court granted the Mr. Mansfield's Motion for Favorable Evidence and ordered the prosecution "to disclose all exculpatory evidence which the prosecution may have in its possession . . ." *Id.*

F. Mr. Mansfield was told by his attorney that the State would agree to "drop the case" if he could pass a polygraph.

Prior to the jury trial setting on June 14, 1993, Mr. Mansfield was told by his attorney that the State agreed it would "drop the case" if he could pass a polygraph. Believing that his innocence would be proven with a polygraph, Mr. Mansfield agreed to take a law enforcement polygraph. According to the polygrapher, "the submitting officials would like to determine if the subject [Mr.

Mansfield] has participated in any manner in this alleged crime. The subject *emphatically denies any participation in the aforementioned* [emphasis added]." However, in the examiner's professional opinion, there was deception indicated during the polygraph.

G. On June 23, 1993, during a two-hour interview, S.B. told the State that Mr. Mansfield was innocent because "nothing happened." This key exculpatory evidence was never disclosed to Mr. Mansfield or his attorney.

On June 23, 1993, handwritten notes in the inside case jacket of the State's file contain the exculpatory evidence confirming that Mr. Mansfield was innocent of this crime:

> NOTE: Home interviewed this victim and mother on 5/18/1993 – Victim will be difficult to sponsor in Court. *She told me she does not remember what happened!* I suggest this case be disposed of w/out trial, since victim cannot testify. Her mother wants her to not have to go through it. Shock or 10 prob + jail. Spent 2 hours w/this victim – will be nigh impossible to sponsor her in court. *At one point, told me nothing happened*, then says little boy might have done it (D's son) [emphasis added].

See Exhibit G, handwritten notes from inside case jacket of the State's file.

The fact that S.B. continued to maintain Mr. Mansfield's innocence during a two hour meeting with the State was never disclosed to Mr. Mansfield or his attorney. *See Exhibit D, sworn affidavit of attorney Stephen Cihal.* In fact, not only was this key exculpatory evidence concealed by the State and never disclosed to Mr. Mansfield or his attorney, it was deceptively used by the State to induce a guilty plea by offering him probation.

H. The State simultaneously engaged in intentionally withholding and concealing key exculpatory evidence while at the same time intimidating Mr. Mansfield with false evidence and threatening lengthy prison sentences to induce a guilty plea.

Knowing full well that there was evidence that Mr. Mansfield was innocent of the crime and that it would be, according to the prosecutor, "nigh impossible" to prove the case against Mr. Mansfield, the State continued to threaten that Mr. Mansfield would be convicted and would face up to life imprisonment. *See Exhibit G, handwritten notes from inside case jacket of the State's file.*

Moreover, Mr. Mansfield was told by his attorney, Mr. Cihal, that the State had a video of S.B. describing in detail what Mr. Mansfield did to her and that they had a doctor that had conducted a forensic examination of S.B. which corroborated her story. Both of those statements were false: the only evidence the State had was S.B.'s initial statement which had subsequently been recanted.

At some point between the State's interview of S.B. on May 18, 1993, where she stated that Mr. Mansfield did not commit this crime, and the trial setting of September 13, 1993, the State relayed to Mr. Mansfield's attorney that it would offer to reduce the charge from a first degree felony Aggravated Sexual Assault of a Child where he was facing a prison sentence of 5-99 years or life to a second degree felony Indecency with a Child and they would offer a sentence of 10 years probation with 120 days in the county jail as a condition of probation. Mr. Mansfield was at court when his attorney, Mr. Cihal, relayed to him the following after describing the plea offer:

> I just left the DA and he said that there are two people they love to put in jail in Williamson County "Drug dealers and Sex Offenders" and as far as he was concerned I was both.2 So, he hoped I would not take the plea he is offering because he wants to put me under the jail.

Mr. Mansfield's response to that threat (which we now know was an empty threat) was:

> I cannot describe the fear that I had in my heart that I would not get to see my kids grow up and that I was not a nice enough guy for my wife to wait on me to get out....I was afraid I would lose it all if I did not take this plea.

l. Mr. Mansfield finally agreed to plead guilty to Indecency with a Child in exchange for 10 years probation because he did not want to risk losing his life and his family.

Mr. Mansfield did not want to plead guilty to something he did not do, however, on September 9, 1993, four days before trial, Mr. Mansfield's lawyer called the State to say that he would accept their offer of probation. According to Mr. Mansfield, "Although I was not guilty, I

agreed to take a plea to save my life and my family. I did not want to see my children grow up without their father or my wife to have to manage on her own the difficulties of life without me." Mr. Mansfield did not want to risk life imprisonment and was told that while he would have to register as a sex offender while on probation, it would be a non-public registration and that requirement would be terminated after he completed probation.

Mr. Mansfield entered a plea of guilty on September 13, 1993. Prior to sentencing, Mr. Mansfield went to the probation department to complete a presentence report ("PSR") on October 15, 1993. It was there that Mr. Mansfield was told he needed to provide his version of the offense and accept responsibility for his crime. In the PSR, in the section "Defendant's Version of the Offense" he provided the following written statement: "I was playing with my oldest son, John and S.B. (a neighborhood friend of our boys). They were on the two beds in the boy's room. They would hide under the covers and I would pick them up and toss them from bed to bed and tickle them. This was the only time I came into contact with Sarah that could have been mistaken as any other type of contact." In addition, during the interview, according to the PSR, Mr. Mansfield stated the following: "I was playing with S.B. and my son on the bed. I never intentionally touched S.B. in any way. It could have been on accident that my finger slipped and touched her bottom. If it did, it was purely on accident. She was wearing shorts at the time. My wife was also in the house."

Mr. Mansfield was sentenced on November 1, 1993, in the above-referenced cause number to ten years probation and 120 days in the county jail as a condition of probation and the requirement that he register as a sex offender while on probation. *See Exhibit H, When the Innocent Plead Guilty, detailing 29 individuals who pled guilty to crimes they didn't commit to avoid the potential for a long sentence.*

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2 Prior to this case, when Mr. Mansfield w as given six months deferred adjudication probation for possession of a small

J. Mr. Mansfield has been condemned to living a life of a convicted, registered child sex offender for a crime that he did not commit.

While it was true at the time of the plea that Mr. Mansfield would only be subject to sex offender registration during the time of probation, the law subsequently changed and was made retroactive. As a consequence, Mr. Mansfield has been a registered sex offender since 1993 and must continue to register publicly as a sex offender for the remainder of his lifetime. Because Mr. Mansfield has been condemned as a registered child sex offender for the majority of his adult life, he has faced unspeakable horrors, from being shamed, threatened and humiliated, to being run out of towns, communities and churches, to not being able to participate in his two children's lives fully, to being deported at gunpoint *from* Mexico because he is a registered sex offender. Yet despite all of these hurdles, Mr. Mansfield has maintained his own sense of dignity with his family and those who know him and with the Lord because they all knew he did not do this. They all knew that one day, the truth would come out that Troy was innocent.

In support of his Application, Mr. Mansfield shows the following:

III.

RESTRAINT

Mr. Mansfield is illegally restrained in his liberty by virtue of a conviction in Cause No. 92-435-K277 for Indecency with a Child in the 277th Judicial District Court of Williamson County, Texas. *See Exhibit I, copy of the judgment.* Although Applicant has successfully discharged his sentence in said cause, he is suffering from the consequences of his guilty plea. Specifically, he is subject to lifetime sex offender registration and to living life as a convicted child sex offender. *See Exhibit J, copy of Mr. Mansfield's sex offender registration.* He is therefore under restraint. This Court retains jurisdiction to consider a habeas corpus application filed by an applicant who has been

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amount of marijuana.

discharged from community supervision, under Texas Code of Criminal Procedure Article 11.072 § 2(b), which requires that the applicant, "must be, or *have been*, on community supervision." (emphasis added). *Ex parte Schmidt*, 109 S.W.3d 480 (Tex.Crim.App. 2003). *See also Ex parte Ormsby*, 676 S.W.2d 130 (Tex.Crim.App.1984); *Ex parte Jordan*, 659 S.W.2d 827 (Tex.Crim.App.1983); *Ex parte Phelper*, 442 S.W.2d 695 (Tex.Crim.App.1969)(writ proper after discharge of probation or payment of fine).

IV.

JURISDICTION AND PROCEDURAL HISTORY

On August 26, 1992, Mr. Mansfield was arrested for Aggravated Sexual Assault of a Child and Indecency with a Child. On September 13, 1993, Mr. Mansfield pled guilty to Indecency with a Child and on November 1, 1993 he was sentenced to ten years probation and one hundred twenty days in the county jail as a condition of probation. Mr. Mansfield was also required to register as a sex offender. Mr. Mansfield successfully completed his period of probation

V.

PRIOR WRIT APPLICATION

No prior writ applications have been filed in this case.

VI.

SUPPORTING RECORDS

Copies of the record in Cause No. 92-543-K277 are attached as an Appendix.

VII.

ARGUMENT AND GROUNDS FOR REFLIEF

Mr. Mansfield's restraint is illegal based on newly discovered evidence of actual innocence, his involuntary guilty plea and the violation of his due process rights after key exculpatory evidence

was suppressed by the State under Article I §19 of the Texas Constitution and under the Fourteenth Amendment to the United States Constitution.

A. Mr. Mansfield is entitled to relief based on newly discovered evidence of actual innocence. No rational jury would have found proof of guilt beyond a reasonable doubt had the evidence of the complainant's continued and persistent assertion that Mr. Mansfield was innocent been available.

The prosecutor is the "servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer." *Berger v. United States*, 295 U.S. 78 (1935). Here, Mr. Mansfield's "innocence suffered" for the last twenty-three years as a result of misconduct by the State, whose former trial prosecutors failed to disclose exculpatory evidence. The only evidence the State had as to Mr. Mansfield's guilt was S.B.'s statement that he committed the crime: there simply was no other evidence of Mr. Mansfield's guilt. S.B.'s continued and persistent recantation of that statement very soon after it was initially made (as soon as August 26, 1992 and up through at least May 18, 1993) creates not just reasonable, but overwhelming doubt about Mr. Mansfield's guilt. The State violated Mr. Mansfield's due process rights by intentionally failing to turn over material, exculpatory key evidence that would have supported Mr. Mansfield's innocence claims. As such, Mr. Mansfield is entitled to relief based on his innocence pursuant to *Ex Parte Elizondo*, 947 S.W.2d 202 (Tex.Crim.App.1996) (granting relief in actual-innocence case where conviction was based "solely" upon testimony of recanting witness, and noting that there was a "complete lack" of any other inculpatory evidence, either "direct or circumstantial"); *see also Ex Parte Thompson*, 153 S.W.3d 416, 418, 420 (Tex.Crim.App.2005) (granting relief on basis of recantation from complaining witness, in part, because results of complaining witness's sexual-assault examination were "completely normal"); *Ex parte Calderon*, 309 S.W.3d 64 (Tex.Crim.App. 2010)(recantations believed; relief granted); *Ex parte Zapata*, 235 S.W.3d 794 (Tex.Crim.App. 2007)(recantations believed; relief granted); *Ex parte*

Harmon, 116 S.W.3d 778 (Tex.Crim.App. 2003)(recantation believed; relief granted); *Ex parte Tuley*, 109 S.W.3d 388 (Tex.Crim.App. 2005)(recantation believed; relief granted).

In *Elizondo*, the Court of Criminal Appeals held that newly discovered evidence that supports a claim of actual innocence can itself provide the basis for relief from a conviction under Texas law pursuant to Art. 11.07. Although the standard is an appropriately demanding one, to be entitled to relief, an applicant need not prove his innocence to a moral certainty; instead, he must show "by clear and convincing evidence that no reasonable juror would have convicted him in light of the new evidence." *Id.* at 209.

In Mr. Mansfield's case, he was set to go to trial and assert his innocence. His claim of innocence at trial would have been all but assured had his counsel been given the compelling and exculpatory evidence that S.B. had persistently maintained that Mr. Mansfield did not do this to her. "No reasonable juror would have convicted" him had this key exculpatory evidence been available and presented at trial. *Elizondo* at 209 (granting relief in actual-innocence case where conviction was based "solely" upon testimony of recanting witness, and noting that there was a "complete lack" of any other inculpatory evidence, either "direct or circumstantial"*); see also Ex Parte Thompson*, 153 S.W.3d 416, 418, 420 (granting relief on basis of recantation from complaining witness, in part, because results of complaining witness's sexual-assault examination were "completely normal"). As such, this Court should recommend that the writ be granted based on Mr. Mansfield's actual innocence.

B. Mr. Mansfield is entitled to relief because his plea of guilty was not knowingly and voluntarily made. Had he known that S.B. had told the State he did not do this, he would have never entered a plea of guilty.

The decision to plead guilty may be influenced by factors that have nothing to do with the defendant's guilt. *Ex parte Tuley*, 109 S.W.3d 388, 393 (Tex.Crim.App. 2002). The inability to disprove the State's case, the inability to afford counsel, the inability to afford bail, family obligations, the need to return to work, and other considerations may influence a defendant's choice to plead guilty or go to trial. *Id.*[3]

Due process, as guaranteed by the Fourteenth Amendment, prohibits a trial court from accepting a guilty plea, and the corresponding waivers of a defendant's Fifth and Sixth Amendment rights, unless the plea is knowingly and voluntarily entered. *E.g.*, *Boykin v. Alabama*, 395 U.S. 238, 242-44 (1969). "There is perhaps no phase of the law regarding the rights of one accused of crime that has been more zealously guarded by the courts than that which requires that a plea of guilty be freely and voluntarily entered by the accused." *Patterson v. State*, 244 S.W.2d 217 (Tex.Cr.App. 1951). The applicant bears the burden of proving "a reasonable probability that, but for the error, he would not have entered the plea." *United States v. Benitez*, 542 U.S. 74 (2004); *Aguirre-Mata v. State*, 125 S.W.3d 473, 475-76 (Tex.Crim.App. 2003).

Not only was this evidence not disclosed to Mr. Mansfield or his attorney, but despite this compelling exculpatory evidence, the State manipulated Mr. Mansfield into a guilty plea with veiled and empty threats, knowing full well that it would not have been able to prevail at a trial. At the time that Mr. Mansfield entered his plea of guilty in this case, he was not aware that S.B. had persistently proclaimed that Mr. Mansfield did not do what she had initially accused him of doing. Had Mr. Mansfield been aware of the key exculpatory evidence the State was suppressing, he would not have

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3 Innocent people may plead guilty, for various reasons. An innocent person may want to take advantage of a discounted sentence in a plea bargain, rather than gamble on a far greater sentence if a mistaken verdict is returned. Or a person may not know what he is admitting and accept his attorney's advice that a guilty plea is prudent. Or a person may be under some

entered the plea. Because Mr. Mansfield was not aware that the State had evidence of his innocence at the time of his plea, his plea of guilty was not knowing and voluntary and was therefore in violation of his Constitutional Right to Due Process. Accordingly, the judgment in cause number 92-543-K277 should be vacated.

C. Mr. Mansfield is entitled to relief because the State Failed to Disclose Exculpatory Evidence in Violation of Mr. Mansfield's Due Process Rights.

For over fifty years, it has been well settled that both state and federal prosecutors have an affirmative duty to timely disclose any "evidence favorable to an accused," whether it pertains to guilt or punishment. *See Brady v. Maryland*, 373 U.S. at 87 (1963); *Ex parte Adams*, 768 S.W.2d 281, 293 (Tex. Crim. App.1989). The pretrial *Brady* disclosure obligation is a broad one, requiring production of all favorable evidence "irrespective of the good or bad faith of the prosecution." *Brady*, 373 U.S. at 87; *see also* R. Cary et al., FEDERAL CRIMINAL DISCOVERY (2011 ed.) §1.B at 29-30 (demonstrating that the "favorable or exculpatory to the defendant" threshhold under *Brady* "is not a difficult hurdle to overcome. The court need only find that the information would have aided the defendant's case in some way.") And favorable material subject to mandatory disclosure under *Brady* has long included evidence that may be used to impeach a State's witness, including "evidence affecting credibility." *See Giglio v. U.S.*, 405 U.S. 150, 153-54 (1972); *see also United States v. Bagley*, 473 U.S. 667, 675-76 (1985) (no distinction between impeachment evidence and other favorable evidence for *Brady* purposes). A defendant will be entitled to relief whenever the State's failure to disclose *Brady* material "undermine[s] confidence in [his] conviction." *Smith v. Cain*, 132 S.Ct. 627, 631 (2012) (internal citations omitted). And where -- as in this case -- counsel

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pressure to accept responsibility for something he did not do, in order to protect someone else, whom he loves or fears. *United States v. Timbana*, 222 F.3d 688, 718 (9th Cir.2000) (Kleinfeld, J., dissenting)

for a defendant made a specific request for certain materials that were not disclosed, the inference that the violation was material will be particularly strong. *See Bagley*, 473 U.S. at 682. The failure of prosecutors to reveal exculpatory evidence to defendants and their attorneys is an appropriate ground for an application for writ of habeas corpus. *Ex parte Lewis*, 587 S.W.2d 697, 701 (Tex. Crim. App. 1979).

Well before trial, Mr. Mansfield's attorney filed many pretrial motions, including a Motion for Favorable Evidence to the Defendant. This motion requested that the Court "order the prosecution to disclose all exculpatory evidence which the prosecution may have in its possession, and further that the prosecution reveal its entire file for the Court for review by the Court in camera for the Court's determination as to what evidence therein is exculpatory . . ." and was filed October 26, 1992. *See Exhibit F. Motion for Evidence Favorable to the Defendant.* On May 17, 1993, the Judge granted the motion and specifically ordered the State to disclose all exculpatory evidence in this case.

There can be no question that the evidence withheld by the State – S.B.'s persistent recantation – was material (it was the key *and only evidence* the State had against Mr. Mansfield) and the concealment undoubtedly undermines Mr. Mansfield's conviction. There is no doubt that Mr. Mansfield's counsel would have used the suppressed evidence to provide additional corroboration demonstrating Mr. Mansfield's innocence. *See United States v. Bagley*, 473 U.S. 667, 676 (1985) (to make a determination of whether suppressed evidence undermines confidence in the conviction, the court must consider how defense counsel would have used the evidence had it not been suppressed by the State).

The suppressed evidence here concerns not only the heart of the State's case but the entirety of the State's case. The State's failure to disclose the exculpatory evidence was in violation of both its due process obligations as well as the district court's *specific* orders granting Mr. Mansfield's pretrial *Brady* motion. Moreover, the suppressed evidence demonstrates and corroborates Mr. Mansfield's claim of innocence. Therefore, the judgment in cause number 92-543-K277 should be vacated.

VIII.

CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, Applicant respectfully requests that the Court do the following:

1. Issue a writ of habeas corpus vacating his unlawfully obtained plea and sentence;
2. Declare his innocence;
2. Grant a full and fair evidentiary hearing on all claims raised by this Application;
3. Grant Applicant such other and further relief as may be just and proper.

Respectfully submitted,

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By: _____
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ATTORNEY FOR APPLICANT
TROY DALE MANSFIELD

Agreed to in part: _____
Mark Brummer
ASSISTANT DISTRICT ATTORNEY

VERIFICATION

STATE OF TEXAS §
§
§

COUNTY OF WILLIAMSON

BEFORE ME, the undersigned authority, on this day personally appeared TROY DALE MANSFIELD, who, after being by me duly sworn, upon oath said:

My name is TROY DALE MANSFIELD. I am the Applicant in this action and know the contents of the above Application and according to my belief, the facts stated in the Application are true.

TROY DALE MANSFIELD

SWORN and SUBSCRIBED before me, the undersigned authority, on this the 9th th day of March, 2015.

Notary – State of Texas

SEAL
Grace Avila
My Commission Expires
07/24/2016

Grace Avila
Printed Name

7-24-2016
Commission Expires

Exhibit A

8/1/92 – at home – wife & boys at home; other kids played with kids
– wife took them home

– told Lemay he wanted to get ally.
– Lemay knows & let him leave –
– " badgered him.

– 20 minutes with Sarah & other kids
– oldest boy & Sarah covered up with blanket.

– heard that Sarah says he has put fingers in butt & vagina.

– Yeast infections.

– neighbor knows Sarah's mother & father – welfare cheats.

– 5-6 months – baby not by ~~Sarah~~ Sarah.

* – Sarah looked from under blanket – looked at him strange – serious look on her face

Did not under blanket w/ Sarah –
Could he have put his (little boy's) fingers on her.

* Δ says: little kids don't lie –
either Sarah was coached or she has been molested earlier & the accident touching reminded her.

Exhibit B

CAUSE NO. 92-435-K277

STATE OF TEXAS	§	IN THE 277th JUDICIAL
	§	
	§	
v.	§	DISTRICT COURT OF
	§	
	§	
TROY DALE MANSFIELD	§	WILLIAMSON COUNTY, TEXAS

AFFIDAVIT OF TROY MANSFIELD

BEFORE ME, the undersigned authority, personally appeared Troy Dale Mansfield, who, after being by me duly sworn stated the following under oath:

"My name is Troy Dale Mansfield. I am over the age of eighteen (18) years, and I am competent to make this affidavit. The statements contained herein are true and correct.

""I am the individual who was charged with Aggravated Sexual Assault of a Child and Indecency with a Child in Williamson County in Cause No. 92-435-K277 in August 1992. In early August 1992 I received a phone call from someone in the Round Rock Police Department asking me if I would come in and meet with them. I had no idea what they wanted to talk to me about but I assumed it was related to the possession of marijuana case that I had been arrested for a few weeks prior to that and I assumed that they wanted to ask me about where I got the marijuana.

Later in the afternoon, I drove myself to the police department and they put me in a small room and began to ask me questions about S.B., a girl who lived in our neighborhood and who had been to our house to play with my sons a few days prior. When it became clear that they

were accusing me of touching her sexually I told them that I did not do anything to S.B. and I wanted to leave. At this point, Detective Lemay told me that I was free to leave but if I did, he would make sure that my kids would not be home when I get there because they will be taken away from my wife and placed in CPS custody until his investigation was complete. I continued to say that I had not done what they were accusing me of and at some point, Detective Lemay told me that he would agree to drop the investigation as long as I would be willing to go and be evaluated at MHMR across the street, pay for it myself and bring him the receipt showing that I had been. I do not know how long I had been at the police station when Detective Lemay said this but I was very scared and concerned for my wife and children having to be separated and traumatized besides I needed to clear my name and get home to my family so I told him that I had not done anything wrong and did not have a problem meeting with MHMR to clear my name and not put my wife and children through this mess. It was at that point that the detective told me that I had confessed and I was not allowed to leave and if I tried to he would have me arrested. He then said that only a guilty man would come to the police station to talk to them and only a guilty man would agree to meet with MHMR and only a guilty man would stay at the police station after being told they could leave (even though he threatened to separate Amy and from our children). Detective Lemay then had my wife and 4 year old son (our 2 year old was left with our neighbor) brought into the police station and they were placed in separate rooms and also interrogated. I felt I had no choice but to submit to what they wanted and say what they wanted after hours of interrogation of me, my wife and children.

After Detective Lemay told me that I had indeed confessed to him several time, he then told me that I needed to write it down on paper. However, that is when I wrote my statement retracting any statement that sounded like a confession. After I wrote my statement making it clear I did not do this and only made statements to him out of fear and frustration, my wife, and I were allowed to take our son and go home and I thought this whole matter was over.

However it was a few days later that I realized it was not over. The prosecutor had taken the case to the grand jury and indicted me in this case. I immediately turned myself in. My family and friends scraped together and hired an attorney for me and I began to fight the charges. I had always maintained that I was innocent of this and my family and friends knew this.

My case was reset many times over the next year or so. During the course of the case, my attorney told me that the prosecutor had told him that the police had a video of S.B. describing in detail what I had allegedly had done to her and that they also had a doctor's statement what he examined the girl and had found evidence to back up the accusation. I could not imagine how they could have such evidence and I told my attorney repeatedly that I was innocent. Before one of the trial settings, my attorney told me that the State had agreed to drop my case if I could pass a polygraph test. Knowing that I was innocent I had no problem taking the test so my attorney, at his suggestion, made an appointment for me to take a DPS polygraph test. I took the test and I believed I had passed and all was going to work out. However, my attorney then said that the prosecutor had said that there was deception indicated on the test.

As the case dragged on, I began to feel more and more scared for my wife and children and what they would do if I was to go to prison. At one of the court settings, I remember vividly my attorney telling me that Williamson County has a 98% conviction rate and that I was facing 25 year to life in prison if I was convicted. I cannot describe the fear that I had in my heart that I would not get to see my kids grow up and although Amy and I have been together since middle school, I was afraid of not being there for her through the years. It was during this time that my lawyer told me that the prosecutor was now offering me probation and no separation from my family if I agreed to plead "no contest." I was afraid I would lose it all if I did not take this plea. In fact, my lawyer told me that he had just left the DA's office and the prosecutor had said that there are two people they love to put in jail in Williamson County "Drug dealers and Sex Offenders" and as far as he was concerned I was both. So, he hoped I would not take the plea he

is offering because he wants to put me under the jail. Even though I was innocent of the charges I decided to accept this plea agreement and plead guilty to something that I did not do in order to save my life and my family.

I was also told at the time of the plea that while I would have to register as a sex offender while on probation, it would be non-public registration and that requirement would be terminated after I completed probation. However, that was not the case. I have been a registered sex offender ever since and I and my family have faced unspeakable horrors, from being shamed, threatened and humiliated, to being run out of towns, communities and churches, to not being able to participate in my two children's lives fully, to even being deported at gunpoint from Mexico because I was a registered sex offender.

There was never ever any point in time that anyone the Williamson County District Attorney's Office or my attorney tell me that S.B. had said that I did not do this. Had I been told this information, I would have never ever agreed to plead guilty to something that I did not do. Throughout the entire case, my lawyer never was able to see the police reports or anything. If I had known at the time that not only had S.B. told the prosecutor I did not do this in the same month I was indicted, but that there was no additional evidence against me – no video and no forensic evidence – I would have insisted on having a trial. I would never have agreed to live a life as a convicted, registered child sex offender.

"I AM SIGNING THIS AFFIDAVIT VOLUNTARILY. I HAVE NOT BEEN COERCED OR THREATENED IN ANY WAY TO SIGN THIS AFFIDAVIT, NOR HAS ANY PROMISE OF ANY NATURE BEEN MADE IN EXCHANGE FOR MY EXECUTION OF THIS AFFIDAVIT."

Troy Dale Mansfield, Affiant

2-25-15
Date

SWORN and SUBSCRIBED before me, the undersigned authority, on this the ___th day of February, 2015.

Notary – State of Texas

NOTARY PUBLIC STATE OF TEXAS
Grace Avila
My Commission Expires
07/24/2016

Grace Avila
Printed Name

7-24-2016
Commission Expires

Exhibit C

CAUSE NO. 92-435-K277

STATE OF TEXAS	§	IN THE 277th JUDICIAL
	§	
	§	
v.	§	DISTRICT COURT OF
	§	
	§	
TROY DALE MANSFIELD	§	WILLIAMSON COUNTY, TEXAS

AFFIDAVIT OF AMY MANSFIELD

BEFORE ME, the undersigned authority, personally appeared Amy Mansfield, who, after being by me duly sworn stated the following under oath:

"My name is Amy Mansfield. I am over the age of eighteen (18) years, and I am competent to make this affidavit. The statements contained herein are true and correct.

"I am the wife of, Troy Dale Mansfield, the individual who was charged with Aggravated Sexual Assault of a Child and Indecency with a Child in Williamson County in Cause No. 92-435-K277 in August 1992. On August 4th 1992, we got a call to our home and the police had asked Troy to come down and talk to them. When he told me this, we thought it was about the arrest (the only arrest) of him a week or so earlier, for possession of marijuana. So, he said he would go up and talk to them and see what they wanted.

Right after he left my neighbor in our duplex, Dorothy A., came over and told me that the mother of the little girl she watches said they made a complaint that Troy had done something to their daughter SB. I was shocked to hear this as I, at that time, had been married to Troy for 7 years and I had dated him through middle school and high school and I have never seen anything like that in him. He had always been kind to the kids and a great dad to our boys. Several hours later I got a call to bring my oldest son to the police station. I left our youngest with my neighbor and headed up

to see what they wanted with our son.

When I arrived, the police put us in separate rooms and interrogated my son without my presence. Then they came in and began asking me questions about Troy and his relationship with our boys and other children. Finally, they brought Troy into the room and sat us across from each other; then Detective Lemay told me that Troy had already confessed to this crime and would be charged. I didn't believe it for a minute. Immediately Troy said, "I did not confess to this- I told you over and over I did not do this"...and at that point Lemay left the room. Troy and I talked for just a moment (in unbelief of all that was happening) and decided we needed to get out of there and get some advice about this situation. I am not sure how long I was at the police station but finally they allowed us to take our son and go home.

We talked to friends about what was happening and called my parents in Victoria, Texas to ask their advice. They said we should come home and meet with them face to face and Daddy would get a hold of an attorney to see what we should do next. As soon as we could get away we headed to Victoria and met with my parents and then met with the attorney friend of my father. He said he would take care of this if it went any further than it had, but to him it did not seem to him that the police had a case, but he had not seen what they had and had only talked with us.

After almost a year of delays and rescheduling, Troy and I were very concerned as our attorney had told us that according to the DA, they had a solid case against Troy, even though our attorney had not seen any of that evidence himself. Then the DA offered for Troy to take lie detector test and if he passed that, he said he would drop all charges. Troy knew he was innocent and that he should have no problem passing the test. When the test was administered, we were told that he had passed but that the examiner said that some deception was indicated. This just sounded fishy to me; I felt like they were out to get Troy, even though he was innocent. So the DA said he was moving forward with the case.

Some time in September or so of 1993, the DA offered Troy probation and 120 days in jail if we plead out the case. I distinctly remember talking to our attorney and he said we would plead "no contest" and that there would be no restrictions on Troy's contact with our boys and he could

continue to live in the home with us. He explained to us that "no contest" doesn't mean –guilty, and that was what I was concerned about. The alternative was very scary, as the DA was telling us that we were facing 25 years to Life in prison. I could not imagine my life without my husband and knew we needed to be together to raise our boys.

So, on November 1, 1993, Troy accepted the Plea and was sentenced to 10 years probated and 120 in jail. We were hopeful that we would get through this 10 year period and this would all be behind us. But, the law changed in 1996 and my husband has had to register as a sex offender and have his picture on a website for the past 21years! I cannot understand how they can override what was written out in his papers. Once he finished his probation, he should have been free from any registration. Over the years we have been ran out of neighborhoods, asked to leave churches, Troy has been told he could not attend his son's basketball game and the list goes on and on. Since Troy got off of probation in 2003, we had visited Cancun, Mexico on several occasions but in August of 2014 upon arrival into Mexico we were greeted at customs by three armed officers. They took Troy and I into a separate area and put us in different rooms and would not allow us to see each other for several hours. Then they led us at gun point through the airport and onto an empty plane. This plane took us to LA and then on to Dallas. I have never been so afraid in my life and knowing what was going on with some of our service men being held in a Mexican Jail for months, I had no idea what was going to happen to us. I kept thinking of Troy's embarrassment through all this, but he stayed calm and tried to stay on the upbeat dealing with these people. They made him sign a paper that stated that he would never come to Mexico again...but it was a paper typed out in Spanish, so he was blindly trusting that it was indeed what they said it was. If he didn't sign it, we could not go home, but to jail! We of course were devastated with this whole ordeal. I tried to stay strong for Troy, as he was dealing with enough of his own embarrassment.

Our prayers have been that we can have our lives back again; that this horrible stigma will not be looming over Troy's (our) head anymore. We have tried so hard to live normal lives, but there has always been this issue holding us back. We look forward to the day where Troy is shown innocent and this injustice that we have dealt with for so many years will be put to rest.

"I AM SIGNING THIS AFFIDAVIT VOLUNTARILY. I HAVE NOT BEEN COERCED OR THREATENED IN ANY WAY TO SIGN THIS AFFIDAVIT, NOR HAS ANY PROMISE OF ANY NATURE BEEN MADE IN EXCHANGE FOR MY EXECUTION OF THIS AFFIDAVIT."

Amy Mansfield

Amy Mansfield, Affiant

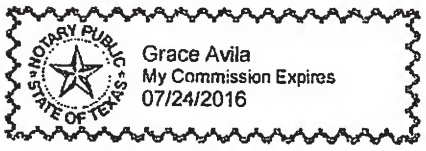
02-25-15

Date

SWORN and SUBSCRIBED before me, the undersigned authority, on this the ___th day of February, 2015.

Notary — State of Texas

{ SEAL }



Grace Avila

Printed Name

7-24-16

Commission Expires